

AMENDED IN ASSEMBLY MARCH 4, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 125**

**Introduced by Assembly Member Cogdill**

*(Coauthors: Assembly Members Benoit, Bogh, Cox, Dutton, Haynes, La Suer, Matthews, Maze, Pacheco, Plescia, and Wyland)*

*(Coauthors: Senators Aanestad, Battin, Denham, and Morrow)*

January 15, 2003

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An act to amend Sections 11379.6, 11383, and 11644 of, and to add Section 11383.5 to, the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

AB 125, as amended, Cogdill. Controlled substances: unlawful manufacture and possession.

(1) Existing law makes it a felony punishable by 3, 5, or 7 years in the state prison and by a fine not exceeding \$50,000 to unlawfully manufacture any controlled substance.

This bill would impose this same penalty on any person who engages in the unlawful extraction, as defined, of ephedrine, pseudoephedrine, phenylpropanolamine, or their salts and isomers, or any substance containing ephedrine, pseudoephedrine, phenylpropanolamine, or their salts or isomers. The bill would also provide that if a fire occurs that can be shown, beyond a reasonable doubt, to have been caused by the unlawful manufacture of a controlled substance, or by the unlawful extraction of a specific substance mentioned above, any person 18 years of age or older who engaged in that unlawful manufacture or extraction process and who knew or should have known that the process causing

the fire was either unsafe or illegal shall be punished by an additional 2 years in the state prison. By creating new crimes and enhancements, this bill would impose a state-mandated local program on local governments.

(2) Existing law provides, with specified exceptions, that it is a felony for any person, with intent to manufacture methamphetamine, to possess ephedrine or pseudoephedrine, a substance containing ephedrine or pseudoephedrine, or other specified chemicals.

This bill would, in addition, provide that the possession of more than 1/2 pound of ephedrine or pseudoephedrine or their salts or isomers or other specified chemicals is a felony. The bill would include persons as otherwise authorized by law within an exception to these provisions and would also make a clarifying change. By creating new crimes, this bill would impose a state-mandated local program.

(3) Existing law requires the Crime Prevention Center to increase public awareness in areas such as the health dangers created by clandestine laboratories and the controlled substances they produce, including how to identify and report them, and the unusual effects and dangers of synthetic substances such as analogs of fentanyl, MPPP, phencyclidine, and methamphetamines.

This bill would make a technical, nonsubstantive change to this provision.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 11379.6 of the Health and Safety Code  
2 is amended to read:

3 11379.6. (a) Except as otherwise provided by law, every  
4 person who manufactures, compounds, converts, produces,  
5 derives, processes, or prepares, either directly or indirectly by  
6 chemical extraction or independently by means of chemical  
7 synthesis, any controlled substance specified in Section 11054,



11055, 11056, 11057, or 11058 shall be punished by imprisonment in the state prison for three, five, or seven years and by a fine not exceeding fifty thousand dollars (\$50,000).

(b) (1) Any person who engages in the unlawful extraction of ephedrine, pseudoephedrine, phenylpropanolamine, or their salts and isomers, or any substance containing ephedrine, pseudoephedrine, phenylpropanolamine, or their salts or isomers, shall be punished by imprisonment in the state prison for three, five, or seven years and by a fine not exceeding fifty thousand dollars (\$50,000).

(2) For the purposes of this subdivision, “extraction” begins when the mixture containing ephedrine, pseudoephedrine, or phenylpropanolamine is combined with a liquid solvent.

(c) (1) Except as otherwise provided by law, every person who offers to perform an act that is punishable under subdivision (a) or (b) shall be punished by imprisonment in the state prison for three, four, or five years.

(2) If a fire occurs that can be shown, beyond a reasonable doubt, to have been caused by the unlawful manufacture of a controlled substance specified in subdivision (a) or by the unlawful extraction of a substance specified in subdivision (b), any person 18 years of age or older who engaged in that unlawful manufacture or extraction process and who knew or should have known that the process causing the fire was either unsafe or illegal shall be punished by an additional two years in the state prison.

(d) All fines collected pursuant to subdivision (a) or (b) shall be transferred to the State Treasury for deposit in the Clandestine Drug Lab Clean-up Account, as established by Section 5 of Chapter 1295 of the Statutes of 1987. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by the county.

SEC. 2. Section 11383 of the Health and Safety Code is amended to read:

11383. (a) Any person who possesses both methylamine and phenyl-2-propanone (phenylacetone) at the same time with the intent to manufacture methamphetamine, or who possesses both ethylamine and phenyl-2-propanone (phenylacetone) at the same time with the intent to manufacture N-ethylamphetamine, is guilty of a felony and shall be punished by imprisonment in the state prison for two, four, or six years.

(b) Any person who possesses at the same time any of the following combinations, or a combination product thereof, with intent to manufacture phencyclidine (PCP) or any of its analogs specified in paragraph (22) of subdivision (d) of Section 11054 or paragraph (3) of subdivision (e) of Section 11055 is guilty of a felony and shall be punished by imprisonment in the state prison for two, four, or six years:

(1) Piperidine and cyclohexanone.

(2) Pyrrolidine and cyclohexanone.

(3) Morpholine and cyclohexanone.

(c) (1) Any person who, with intent to manufacture methamphetamine or any of its analogs specified in subdivision (d) of Section 11055, possesses ephedrine or pseudoephedrine, or any salts, isomers, or salts of isomers of ephedrine or pseudoephedrine, or who possesses a substance containing ephedrine or pseudoephedrine, or any salts, isomers, or salts of isomers of ephedrine or pseudoephedrine, or who possesses at the same time any of the following, or a combination product thereof, is guilty of a felony and shall be punished by imprisonment in the state prison for two, four, or six years:

(A) Ephedrine, pseudoephedrine, norpseudoephedrine, N-methylephedrine, N-ethylephedrine, N-methylpseudoephedrine, N-ethylpseudoephedrine, or phenylpropanolamine, plus hydriodic acid.

(B) Ephedrine, pseudoephedrine, norpseudoephedrine, N-methylephedrine, N-ethylephedrine, N-methylpseudoephedrine, N-ethylpseudoephedrine, or phenylpropanolamine, thionyl chloride and hydrogen gas.

(C) Ephedrine, pseudoephedrine, norpseudoephedrine, N-methylephedrine, N-ethylephedrine, N-methylpseudoephedrine, N-ethylpseudoephedrine, or phenylpropanolamine, plus phosphorus pentachloride and hydrogen gas.

(D) Ephedrine, pseudoephedrine, norpseudoephedrine, N-methylephedrine, N-ethylephedrine, N-methylpseudoephedrine, N-ethylpseudoephedrine, chloroephedrine and chloropseudoephedrine, or phenylpropanolamine, plus any “reducing” agent.

(2) Any person who, with intent to manufacture methamphetamine or any of its analogs specified in subdivision

(d) of Section 11055, possesses hydriodic acid or any product containing hydriodic acid is guilty of a felony and shall be punished by imprisonment in the state prison for two, four, or six years.

(d) (1) For purposes of this section, “reducing” means a chemical reaction in which a hydrogen atom is added to an organic compound or in which an oxygen atom is removed from an organic compound.

(2) For purposes of this section, “a reducing agent” means an agent that causes reduction to occur by either donating a hydrogen atom to an organic compound or by removing an oxygen atom from an organic compound.

(e) For purposes of this section, possession of the optical, positional, or geometric isomer of any of the compounds listed in this section shall be deemed to be possession of the derivative substance.

(f) For purposes of this section, possession of immediate precursors sufficient for the manufacture of methylamine, ethylamine, phenyl-2-propanone, piperidine, cyclohexanone, pyrrolidine, morpholine, ephedrine, pseudoephedrine, norpseudoephedrine, N-methylephedrine, N-ethylephedrine, phenylpropanolamine, hydriodic acid, thionyl chloride, or phosphorus pentachloride shall be deemed to be possession of the derivative substance. Additionally, possession of essential chemicals sufficient to manufacture hydriodic acid, with intent to manufacture methamphetamine, shall be deemed to be possession of hydriodic acid. Additionally, possession of any compound or mixture containing piperidine, cyclohexanone, pyrrolidine, or morpholine ephedrine, pseudoephedrine, norpseudoephedrine, N-methylephedrine, N-ethylephedrine, phenylpropanolamine, hydriodic acid, thionyl chloride, or phosphorus pentachloride shall be deemed to be possession of the substance.

(g) Subdivisions (a), (b), (c), (e), and (f) do not apply to drug manufacturers licensed by this state or persons authorized by regulation of the California State Board of Pharmacy to possess those substances or combinations of substances, or persons as otherwise authorized by law.

SEC. 3. Section 11383.5 is added to the Health and Safety Code, to read:

1 11383.5. (a) Any person who possesses one-half pound or  
2 more of ephedrine or pseudoephedrine, or any salts, isomers, or  
3 salts of isomers of ephedrine or pseudoephedrine; or who  
4 possesses one-half pound or more of a substance containing  
5 ephedrine or pseudoephedrine, or any salts, isomers, or salts of  
6 isomers of ephedrine or pseudoephedrine; or who possesses at the  
7 same time one-half pound or more of the substances specified in  
8 subparagraphs (A) to (D), inclusive, of paragraph (1) of  
9 subdivision (c) of Section 11383, or a combination product  
10 thereof, is guilty of a felony and shall be punished by  
11 imprisonment in the state prison for two, four, or six years.

12 (b) This section shall not apply to drug manufacturers licensed  
13 by this state or persons authorized by regulation of the *California*  
14 *State Board of Pharmacy* to possess those substances or  
15 combination of substances, or persons as otherwise authorized by  
16 law.

17 SEC. 4. Section 11644 of the Health and Safety Code is  
18 amended to read:

19 11644. To the extent moneys are available ~~therefor~~ *therefore*,  
20 the Crime Prevention Center of the Department of Justice shall  
21 prepare and disseminate informational materials on the unique  
22 dangers posed by clandestine laboratories and the controlled  
23 substances they produce. The Crime Prevention Center shall  
24 increase public awareness in areas such as the health dangers  
25 created by the laboratories themselves, including how to identify  
26 and report them, and the unusual effects and dangers of synthetic  
27 substances, including, but not limited to, analogs of fentanyl,  
28 MPPP, phencyclidine, and methamphetamines.

29 SEC. 5. No reimbursement is required by this act pursuant to  
30 Section 6 of Article XIII B of the California Constitution because  
31 the only costs that may be incurred by a local agency or school  
32 district will be incurred because this act creates a new crime or  
33 infraction, eliminates a crime or infraction, or changes the penalty  
34 for a crime or infraction, within the meaning of Section 17556 of  
35 the Government Code, or changes the definition of a crime within  
36 the meaning of Section 6 of Article XIII B of the California  
37 Constitution.

